

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

Alonzo Austin,)
)
 Plaintiff,)
)
 v.) Civil Action No.
)
 Sam Abdallah, Rachelle Copeland,) 3:07-CV-042-MEF
 Global Connection, Inc. of America,
 Global Connection Inc. of Alabama,
)
 Defendants.)

**DEFENDANTS' RESPONSE TO COURT'S ORDER TO SHOW CAUSE WHY THE
COURT SHOULD NOT SANCTION FOR FAILURE TO COMPLY WITH THE
DISCOVERY ORDER**

COMES NOW, Defendants and responds to this Honorable Court's Show Cause Order as follows:

1.

Defendants' Counsel received discovery requests from the Plaintiff on or about August 10, 2007.

2.

Defendants' Counsel completed and sent responses to those discovery requests to Plaintiff on September 10, 2007.

3.

Defendants' Counsel also prepared and sent separately discovery requests to the Plaintiff on September 17, 2007, including a letter requesting a date and time the Plaintiff would be available for deposition.

4.

Defendants' Counsel had not received responses to the aforementioned requests as of October 17, 2007 and so attempted to contact the Plaintiff via telephone, facsimile and letter.

5.

Until Defendants' Counsel received Plaintiff's Notice of Mediation and Settlement Conference via facsimile, Defendants' Counsel had not received any correspondence of any kind from the Plaintiff since his discovery requests on August 8, 2007.

6.

Defendants' Counsel had presumed the Plaintiff had decided to forego prosecution of this action since he had not responded to any of Defendants' Counsel's correspondence for over sixty (60) days and had not taken any further action with the Court vis-à-vis a renewed dispositive motion or mediation notice.

7.

Defendants' Counsel would request if the Plaintiff does intend to continue to pursue this action that the Plaintiff be ordered to respond to Defendant's discovery requests and that he make himself available for deposition at his earliest opportunity.

8.

Defendant's Counsel would also request an opportunity to file a dispositive motion on the basis of the Plaintiff's responses and deposition testimony as Defendants were unable to prepare such a motion due to the Plaintiff's failure to respond to Defendants' discovery requests and request to make the Plaintiff available for deposition.

9.

Therefore, since Defendants have abided by the Court's Scheduling Order, with the exception of the filing of a dispositive motion by the October 22, 2007 deadline which was due to Plaintiff's failure to cooperate with Defendants' discovery requests, Defendants would ask that they not be sanctioned for Plaintiff's failure to prosecute this action and further that if the Plaintiff does seek to continue to prosecute this action that the Court require Plaintiff to answer the outstanding discovery requests of the Defendants and allow Defendants to file a dispositive motion on the basis of those responses.

This 30th day of November, 2007.

MCKOON, THOMAS & MCKOON

/s/ Joshua R. McKoon

By: _____

Joshua R. McKoon

State Bar No. MCK057

925 Broad Street
P.O. Box 3220
Phenix City, Alabama 36868-3220
334.297.2300

CERTIFICATE OF SERVICE

Counsel for the Defendant has this day served the foregoing on the Plaintiff via First Class Mail at the following address:

Alonzo Austin
1321 Oliver Carus Road
Tuskegee, Alabama 36083

This 30th day of November, 2007.

/s/Joshua R. McKoon

Counsel for Defendant